

EDITED BY

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CONGRESS.

In the Senate yesterday, the bill to reorganize the navy was further debated by Messrs. Hunter and Mallory, and was then postponed. The vetoed insular bill was debated by Mr. Clay. Mr. Toucey obtained the floor, and the subject was postponed till to-day.

In the House of Representatives, the bill granting lands to the Territory of Minnesota to aid in the construction of railroads therein was passed, as was also a joint resolution relative to the distribution of books among new members of Congress.

THE LOVE OF THE ABOLITIONISTS FOR THE SLAVES.

Joshua R. Giddings, in a speech, delivered in the House of Representatives, whilst the Nebraska bill was pending, gave utterance to the following sentiment:

"To surrender this vast Territory to slavery, will exclude free men from it; for, as I have said, free laborers, bred up with feelings of self-respect, cannot and will not mingle with slaves."

This is suggestive. It exposes the hypocrisy of the abolitionists, and proves that their loud-mouthed professions of kind and charitable feelings for the negro race are all false. "The free laborers bred up with feelings of self-respect" to whom Mr. Giddings alludes are evidently freesoil and abolition laborers; and it is true that the feelings of such will not permit them to mingle with slaves, nor even to occupy the same Territory with them. In the southern portion of the Union, there is a vast number of laborers owning no slaves; but yet living in the same States and counties and towns with slaves. The abolitionists themselves are constantly declaiming on the small number of slave owners in the southern States, and the large number of those who are not slaveholders. These latter, together with the slave owners, are free laborers, yet they do not fly the country because of slavery. But we presume that Mr. Giddings would say that they are not "bred up with feelings of self-respect."

The Ohio abolitionist evidently speaks of those who entertain ideas similar to his own. Indeed, he has no right to speak for any other class of men, whether laborers or idlers. We must, therefore interpret the passage we have quoted from his speech to mean that freesoilers and abolitionists shrink from inhabiting the same Territory with slaves. Their feelings of self-respect will not permit them to do so. We have no doubt that the declaration thus interpreted is perfectly true. The abolitionists are supremely selfish. They care nothing for the slave, yet they are constantly asserting that the negro is entitled to equal rights and equal privileges, and they are constantly pressing laws to place him nominally on a footing of equality with the white man. This is done merely for effect. Like their professions of love and sympathy, it is all a sham, a mere trap, a cunning device, to hide the blackness of their hearts under a mantle of spurious philanthropy, so that they may obtain that credit for honesty and sincerity which will protect them from the fate which their incendiary purposes deserve. But when the truth is told, their "feelings of self-respect" will not permit them to inhabit the same Territory with slaves.

But it may be said that Mr. Giddings and his abolition crew do really cherish a sincere affection for the negro race—but that their feelings of self-respect will not permit them to mingle with that race when in a state of slavery—yet they would cherish a negro as an equal and a brother in a state of freedom. It is not so. Whether bond or free, they care nothing for him. When they have stolen a slave they are content—nor because they have benefited the slave but because they have injured the slave's master and effected something to keep up a sectional agitation for their own aggrandizement. This is proved by the fact that they oppose the introduction of manumitted slaves into their neighborhood, and by the horrible condition of the free blacks who are in their midst. A man may manumit his slaves and carry them amongst the abolitionists of Ohio. Will these philanthropic gentlemen receive them with open arms? Will their charity furnish their colored brethren, whom they love so much, with food, and raiment, and shelter? By no means, they would hunt them up and drive them off. But if the master carries his slaves in their neighborhood, then they are on the alert, using every means to steal them, secrete them, and carry them beyond the reach of pursuit.

Every one who has any knowledge of the subject, knows that the people of the south—those who own slaves as well as those who do not—are infinitely more kind to the negro, whether bond or free, than the abolitionists of the north. Indeed, the abolitionists have less regard for the negro than the rest of the population of the free States. For effect they will insist on the passage of laws establishing negro equality; and for effect they will lionize a free negro in a railroad car or on a steamboat, for it costs them nothing; but they do not seem much disposed to insist on negro equality in practice, unless they can wound the sensibilities of a southern gentleman, and create a disturbance by doing so. In the south the laws recognize the inferiority of the negro, and the southern gentleman can treat his slave with kindness and consideration, and permit a familiar and friendly intercourse without fear of losing any of his dignity or authority. This applies to southerners who do not own slaves, for the law recognizes and fixes the social inferiority of the negro. But when the legal barrier which separates the two races is removed and mischief-men preach up negro equality, then natural repulsion ensues and the requirements of society enforce the dictates of nature more relentlessly than the laws could have done. The negro is an inferior animal, and if the law does not recognize the fact, nature will.

lural impulses will; and the very men who cry aloud for an impossible equality will always be the worst enemies of the negro, and shrink from him.

THE NEW PARTY.

The movement both at the north and the south, suggesting a division of the national whig party into two sectional organizations, has been so fully circulated and so freely commented upon, that most of our readers must already have seen and considered it. The very nature of the whig organism might long ago have assured us that such would be its destiny. Indeed it never existed as a party, since the time of its conception in the administration of General Jackson, but was merely an association of diverse interests called by a common name, and united for the one object of defeating that administration. When General Jackson issued his famous proclamation many of the manly and independent sustainers of the administration withdrew themselves from its support, and united with the broken remnant of the federal party in its opposition, under the vain hope that they could mould and direct it. From this alliance of desecrated federalism, and pure State rights, sprang the mongrel progeny, which was christened "whig," by James Watson Webb, of the *Courier and Enquirer*, while Henry Clay stood sponsor at the baptismal font. The child grew and waxed strong in spirit, but as it developed into manhood there were seen in its aspect the ill-favored features of its federal father, while here and there appeared some sweet expression of the pure principles of its fairer mother. Like the great apostle to the gentiles, there was thus continually "a law of the members warring against the law of the mind," and frequently by this intestine discord "bringing it into captivity to the law of sin."

But we drop the metaphor, which, however applicable, is not appropriate to serious discussion. The result of these inconsistent and discordant elements was frequent and entire defeat; but still, so tenacious are the members who compose a great national party, that the whigs still dragged on a weary existence, trusting that, although defeated in battle, the success of the campaign might yet be attained. A principle was established, as false as it became odious, that the rallying point of a party should be a man, and not a code of measures; a principle which gave to the country two presidents from the field of battle, but none from the great councils of the nation.

In the meantime the cloud of federalism, which had for a time hung impending over the country, passed away; and many who had merely sought shelter from the threatening storm, sought and found again their first association with the republican party. Of these sagacious statesmen and honest men, but proscribed politicians, the country may well be proud; and standing on the high position of rectitude or purpose, and wisdom of foresight, they may hurl back the insinuation of inconsistency in the very teeth of their opposers. A remnant of them still remained with their new associates, but have been struggling homeward from time to time, in broken parties, like routed soldiers from a battle field. And now we hail with hearty congratulations the proposition of our friend of the *Petersburg Intelligencer*, that they shall forever break off the ill-judged alliance, which has only rendered them suspected by their old, and disgraced by their new confederates.

With the republican party is their natural alliance, for it was their first alliance. They are indigenous here and will flourish; they are withering exotics in the unweeded garden of federalism, which "things gross and rank" should alone possess. We do not, however, understand the *Intelligencer* as urging a union with the present democratic organization. While we would welcome them to our ranks, we speak not as partisans for the mere accession of our numbers; we exult not in their distress, but we will rejoice in their determination. Let them unite with us, in a strict adherence to the principles of the Constitution, in a clear recognition of the sovereignty of the States, and in a sincere and earnest purpose to advance the interests and achieve the high destiny which awaits our republic, and we will rejoice that even fanaticism has been the means of establishing and extending truth by its opposition to its principles.

THE SETTLEMENT OF NEBRASKA AND KANSAS—A STRUGGLE.

There is a strong disposition among those who oppose the Nebraska bill because of its repeal of the Missouri restriction, to continue their opposition, so as to make that repeal barren and nugatory. To this end they are diligently engaged in devising schemes for colonizing and settling the two new Territories with men of their own stamp and kidney. They declare that the south shall not establish its power and its peculiar institutions in either. We hear rumors day after day of efforts at the north to get up and organize companies of emigrants to settle and take possession of Kansas and Nebraska, and thus forestall southern emigration. The abolitionists and freesoilers are a talking and a bustling tribe. We have but little faith either in the threats or the promises of those men. If, in order to settle the new Territories with immigrants of freesoil principles, it shall be necessary for the abolitionists to furnish and equip them, then we think the chances are as ninety-nine to a hundred that the hundreds and the thousands they talk of sending off will never go. Supposing them, however, to do so, an interesting and important question will arise, which we purpose to make some remarks on.

Is it right, just, or proper, that herds of human beings drawn from all the haunts of vice, degradation and misery, should be organized by abolition incendiaries and driven into these territories for the sole and exclusive purpose of preventing the emigration of southern people with their property? Would so iniquitous a mode of settling those territories be in accordance with the spirit of our institutions and the intent and purpose of the Nebraska bill? This would not be spontaneous emigration. The object of it would not be to dwell like good citizens in the new territory. The people thus sent would not look upon Nebraska and Kansas as their permanent homes. No! They would be sent for the single purpose of making the repealing clause of the Territorial bill nugatory and inoperative. These hands would not be equipped and armed and would be

established as a sort of army to repel and drive back southern immigrants, with their property. This would be a new form of filibustering—a sort of internal filibustering expedition to conquer free territory. These hordes of Goths and Vandals would be mustered by such men as Theodore Parker, Wendell Phillips, Fred Douglass, and led as a military force to fighten or to drive *et armis* the southern members of this confederacy from Territories that lie immediately adjacent to them, and in the benefits of which they are entitled to a full participation. They go for conquest and not for settlement. They go as abolition soldiers and hirelings and not as good and well-disposed citizens.

Here we give an extract from a recent speech delivered in the House of Representatives by Mr. Giddings. This extract requires no comment. Mr. Giddings said—

"Mr. Chairman, most freely will I contribute of what little substance I possess to arm the slaves who are taken to Nebraska. Most cheerfully shall I do whatever may be in my power, if this bill passes to make that Territory the battle-ground of freedom. I would far rather meet the conflict there, than to continue it here; I would rather meet the arm of slaveholders than the corruptions of the Executive."

Now, if this rush is to be made by these hordes, designed as they are for an army of occupation, it is time for the south to make an effort to establish its power in these Territories. If fair for one, it is fair for the other. There are clans in the south as well as clans in the north. Let the piñon sound over hill and valley, and true men will flock to the gathering. If the effort be to get in first, the south is the nearest, and the south has most at stake. Let her sons step over the line, and raise their banner over the virgin soil of Kansas.

But southern men will hire no gangs of ruffians to carry into those Territories, and desecrate their soil. There are no hireling Swedes in their borders who can be bribed for so ignominious a purpose. Those who go will be true men, who will go to dwell with their property, under cover of the Constitution. They would not seek to deprive their northern brethren of their rights; all that they will ask will be the protection of their own rights and property.

We are sorry to see any indications of the struggle and contest to which we refer. It is a bad sign. We would far rather see emigration take natural modes and channels than be forced by artificial and by corrupt means. But there is an old adage that teaches the propriety of fighting the devil with fire, and we know nothing that the south can do, but profit by the teachings of that adage.

In this connection, we publish, in another column, the proceedings of two public meetings recently held in the State of Missouri, having reference to the settlement of Kansas, to which we ask the attention of our readers.

KANSAS AND SLAVERY.

A St. Louis correspondent of the *New York Herald* has written a carefully prepared statement of the geography, geology, products, and boundaries of Nebraska and Kansas, which appears in the *Herald* of the 17th instant. It is too long for republication, or we would present it to our readers. From that letter we make the following extract, which refers to the prospect of the introduction of slaves into Kansas:

"Prior to the present session of Congress, Colonel Benton undertook to declare the western territory open to settlement, in the teeth of Indian treaties, and direct contravention of the interstate act of 1834; and he urged the northern people to enter upon, and cultivate it at once. Many persons broke up their business, sacrificed their property, and foolishly made the attempt; but they were met at the threshold by the Indian agents, and forbidden to set foot upon it without the consent of the Indians on a *bona fide* trade with the Indians. This they could not procure, and their movements were checked. The colonel's sincerity has been since fairly tested. He was anxious for its occupation, so long as a doubt of the right to occupy existed, because he knew that under such circumstances slaveholders could carry on a *bona fide* trade with the Indians; but as soon as the proposition was made to organize Kansas and Nebraska, and leave the emigrants to decide the question of slavery for themselves, the colonel shifted his position, and we hear no more from him about the importance of an immediate settlement. But his zeal has abated, the seal of the pioneers has not. They are pouring into Kansas by the thousand from Missouri and Arkansas, and into Nebraska by the thousand from Iowa and Wisconsin.

"I see that Horace Greeley and other abolitionists are attempting to raise a fund to colonize Kansas with abolition propagandists and kidnappers. This may be fun for Horace and the leaders of the disunionists; but I can assure him and them, that if persisted in, it will be death to the innocent and misguided fools who are to be sent there. The pioneers of the west, and the men of Kentucky and other slave States, have no objection to respectable northern people, who come to border settlements in good faith, resolved to act as upright and orderly citizens, anxious for the promotion of the common good of all; but they cannot be expected to yield one inch, and certainly will not yield the tenth part of one, to the myriads of a band of men who have already proclaimed their determination to break the bonds of Union and expose the southern people to the same fate. Kansas and Nebraska will be a slave State in spite of the efforts of these incendiaries, and I advise only such of them as come with arms in their hands and hearts to wield them, to enter into this unholy crusade. Ere this reaches you, there will be more resolute men in Kansas determined to crush abolitionism and freesoilism than can be mustered by Greeley and his gang in a twelvemonth to come. It is to be hoped that the Indian titles along the border will be soon extinguished. They occupy by far the most valuable portions of the country, and when they are removed a prosperous community will soon spring up."

ITEMS OF NEWS.

LIFE-SAVING EFFORTS.—After the loss of the *Powhatan*, we expressed the opinion that it was the duty of the Congress of the United States to provide suitable appliances, and locate stations at the public expense along our most exposed and dangerous coasts, particularly along the approaches of our principal commercial cities. It gives us pleasure to announce that, on the 15th instant, Mr. Hamlin, from the Senate Committee on Commerce, reported the following bill, which passed to a second reading:

A bill for the better preservation of life and property from vessels shipwrecked on the coasts of the United States.

It is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to establish such additional stations, on the coasts of Long Island and New Jersey, for affording aid to shipwrecked vessels thereon, to change the location of the existing stations, and to make such repairs, and to furnish such apparatus and supplies as may, in his judgment, be best adapted to give effect to the objects of this act.

Sec. 3. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized to appoint a keeper, at a compensation not exceeding two hundred dollars, at each of the stations to be established under the provisions of the first section of this act, and a superintendent, who shall also have the powers and perform the duty of an inspector for the customs for each of the stations therein mentioned, and to give said keepers and superintendents proper instructions relative to the duties to be required of them.

Sec. 4. And be it further enacted, That no boat shall be purchased or located at any point other than on the coasts of Long Island and New Jersey, unless the same be placed in the immediate care of an officer of the government, or unless the boat shall be given to proper individuals, living in the neighborhood, conditioned for the care and preservation of the same and its application to the use intended.

Sec. 5. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized to establish stations at such lighthouses as in his judgment he shall deem best, and the keepers of such lights shall take charge of such boats and apparatus, for the care and charge respectively, as a part of their official duty.

"SHEPHERD OF THE VALLEY." The publication at St. Louis of this weekly paper has been suspended. The publisher, in his valedictory, says it did not pay. He was losing money, and hence was compelled to suspend its publication. The *Intelligencer* of yesterday says: "The *Shepherd* was an organ of the Catholic faith, and we notice its discontinuance because it had obtained some notoriety through the congressional debates for the boldness with which it expressed its views in regard to religious tolerance."

"JOURNAL OF COMMERCE." The paper alluded to was, by far, the most rabid Roman Catholic paper in the United States; and it is difficult to decide whether or no its discontinuance is a matter for regret. Unlike some of its Jesuit contemporaries, it made no concealments, but openly advocated the establishment of the inquisition in this country, at the earliest practicable moment, and the adoption of any other measures that might compel conformity to the doctrines of holy mother church. Religious liberty, in the opinion of the editor, was the prolific source of evil, and the Bible was little better.

PHILADELPHIA NAVY YARD.—The various timber-houses contain enough of live oak to build four or five first-rate ships, most of which have been stored there for ten or fifteen years. The workmen are getting out the oak for the construction of one of the six steam frigates recently ordered by Congress. The steam frigate, the *San Jacinto* is on the floating dock, and being fitted with the screw manufactured for her by Messrs. Harlan & Hollingsworth, of Wilmington. In a few days, steam will give motion to the new wheel and machinery of this noble vessel. The ship will then receive her armament, which will render her one of the most formidable vessels in the navy—her guns being of long range and first class. The sloop-of-war *Jamestown* is on the floating dock, and dry.

A NEW COUNTERFEIT.—A twenty dollar bill—on the "Bank of Cape Fear, Wilmington, North Carolina, has lately made its appearance; letter A, No. 136, 15th December, 1853. The *Lynchburg Virginian* thus describes it: "It has the figures 20 on each corner, and on each side of the vignette; on the left and right side, and on the right end a medallion image, very indistinct and blurred. The signatures are well done; the note purports to be engraved and printed by C. P. Harbison, New York. The vignette is a half naked female in sitting posture, fondling a goat and kid. The general appearance of the note is light, and the laths work coarse."

MORE OUTRAGES NEAR POTTSVILLE.—In addition to the murder of Keam, on Saturday night, a Protestant Irishman at Westwood was raised from his seat by a party who had been drinking. He came to the door and was struck with a bludgeon and killed, and his wife maltreated. On the *Catawissa* road, above Tanque, a difficulty occurred between an Irishman and his employer, when the former struck the latter with a stone, and would have repeated the blow had not his employer shot him through his arm and leg. It was also reported that a woman had been found near Tremont with her throat cut. These outrages result from intemperance, and have created great excitement.

THE SPANISH FLEET FOR CUBA.—The *Clamor Publico*, of Madrid, May 18, publishes the following list of the vessels ordered to transport troops to Cuba: *Frigate Cortez*, 32 guns; *corvettes Isabel*, 11, 24 guns; *Ville de Bilbao*, 30 guns; *Ferrolana*, 32; *Colonia*, 16; *brig Volador*, 12; *steamers Francisco de Asis*, 10, 500 horse power; *San Isidro*, 4 guns, 100 horse power. Also the following transports with part of their ordnance: *Ship Sobremonte*, *corvette Luisa Fernanda*, *steamers Isabel* in Catalonia, and *Conde de Regla*. All the above vessels are to be ready to sail June 1st.

GEN. QUINCY has sent a telegraphic dispatch to one of his friends in Congress declaring that he has not authorized the disclaimer of filibustering interventions which some persons have published in his behalf in the *Union*. The dispatch further announces that he is proceeding in organizing his force, and shall take care, whether the government oppose or assist in his designs. This is the substance of a communication made to the President by a southern member of the House.

A SHARK IN THE CHOPTANK RIVER.—The *Cambridge* (Maryland) *Chronicle* says, while three or four citizens of that place were bathing, at the end of the long wharf in the Choptank river, on Wednesday night last, they were somewhat frightened at the sight of a large shark, measuring some ten or twelve feet in length, which was fast approaching them. They fortunately made good their escape.

AN AMERICAN YACHT FOR THE EMPEROR OF JAPAN.—It is stated that Mr. Donald McKay, the celebrated ship-builder of Boston, is about building a beautiful yacht, of some ninety tons, which he intends as a present for the Emperor of Japan. We shall probably hear, as one of the results of it, that the shrewd Yankee is constructing several vessels on "Japanese account."

CELEBRATION IN CHARLESTOWN.—The anniversary of the battle of Bunker Hill was celebrated on Saturday, in Charlestown by the firing of cannon, ringing of bells, and a general turn out of the military. The stars and stripes were also displayed on prominent points in Boston, Chelsea, Cambridge, Roxbury, Lexington and Concord, in honor of the day.

The New York Continentals, with Shelton's band, were present.

CULTURE OF TEA IN THE UNITED STATES.—The *Dunkirk Journal* says that a gentleman passed through that village, en route for Cincinnati, with some twelve Chinese tea cultivators, for the purpose of testing the practicability of growing tea in the vicinity of Cincinnati. We hope he may be successful in his experiments, that the consumers in this country may know the difference between the genuine and adulterated article.

A MONSTER OF THE DEEP.—A devil fish, of some trouble, was captured in the Charleston (S. C.) harbor, on Thursday. It measured 17 feet from fin to fin, and its weight was a ton and a half; the mouth measured two feet and a half. This is the second of the species that has been taken in that harbor during the last sixteen years.

NINE FUGITIVE SLAVES were lately captured in Cincinnati, and were given up by the proper authorities to their owners, without any excitement.

Attorney General Cushing's Opinion.—Expenses in Executing the Fugitive Slave Law.

May 27, 1854.

SIR: Your communication of the 21st of January last, and the papers enclosed therewith, present the following facts:

It appears that on the 24th of June, 1851, a warrant issued from the commissioner of the United States in the city of Chicago, in Illinois, for the arrest of a fugitive from Labor, on the application of Crawford E. Smith, of Missouri. The warrant was directed to the marshal of the United States for the district of Illinois, who arrested the fugitive in the city of Chicago. The marshal, a rescue being threatened, the commissioner and the marshal deemed it necessary and proper to call the assistance of the marshal and a police force of twelve men, and also a party of militia, who were in continual attendance for five days during the examination before the commissioner. For the subsistence of this guard the marshal provided; and for such subsistence, and for their *per diem* compensation, he claims payment from the treasury of the United States.

Hereupon, the question for my opinion is thus stated: "Assuming that the expenses in the case under consideration were incurred prior to the issuing by the commissioner of the certificate surrendering the slave to the claimant, and that the expenses are chargeable to the United States, are they not apportioned after the issuing of the certificate?"

By the act of September 18th, 1850, concerning fugitives from service, (IX Statutes at Large, p. 462), it is enacted—

"Sec. 5. That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when so directed; and, if after arrest and confinement of such fugitive by such marshal or his deputy, or whilst at any time in his custody under the provisions of this act, should such fugitive escape, whether with or without the assent of the marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the value of the service or labor of said fugitive in the State, or Territory, or district, whence he escaped."

And by the same section the commissioners appointed under that act are authorized, "within their respective counties, to appoint, in writing, under their hands, and under the seal of the persons, from time to time, to execute such warrants." With authority to such commissioners, or the person to be appointed by them to execute process as aforesaid, to summon and call to their aid bystanders, or posse comitatus of the proper county, when necessary to insure a faithful observance of the clauses of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required as aforesaid for that purpose."

Sec. 6 requires the court, judge, or commissioner, upon satisfactory proof that the person arrested does owe the service or labor to the persons claiming him, &c., "to make out and deliver to the claimant, his or her agent or attorney, a certificate, setting forth the substantial facts as aforesaid."

With authority to such claimant, or his agent or attorney, to use such reasonable force and restraint as may be necessary, under the circumstances of the case, to take and remove such fugitive back to the State or Territory whence he or she may have escaped as aforesaid.

"Sec. 9. Upon affidavit made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force,

it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and to the end thereof authorized and required to employ as many persons as he may deem necessary to overcome such force, and to retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed for the transportation of criminals, to be certified by the court, judge, or commissioner, and paid out of the treasury of the United States."

By the act of August 31, 1852, (session acts, p. 99, chap. 108, sec. 11): "When the marshals or officers of the United States have, or shall incur, extraordinary expenses in executing the laws there, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof, under the special taxation of the district or circuit court of the district in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary."

Upon these statutes the intention of Congress is sufficiently manifest, that no claimant of a fugitive from labor, who obtains a warrant for the arrest, examination, and delivery of the fugitive, is to be charged with costs and expenses incident to the defence of the laws and the officers of the law against lawless persons disposed to rescue the person arrested.

The power and the duty of the officers of the law to protect themselves from being resisted and obstructed by lawless force, in the lawful execution of precepts to them directed appertaining properly to the officers of the law themselves, and not to the individual who appeals to the law to have justice administered to him.

For his own acts the claimant is responsible and chargeable, but not for the consequences of a mob or other persons threatening a violent opposition to the execution of the laws of the land. It is the purpose and proper duty of the government to vindicate and support the majesty of the law against the menaces or violence of rioters and contemners of the process of law.

The 9th section of the act provides for paying the costs and charges of guarding against rescue, even upon the affidavit of the claimant alone, after the certificate of delivery to him, "that he has reason to apprehend that such fugitive will be rescued by force." The reason for paying from the public treasury the charges of the defensive force employed when the judicial officer and the marshal both approve a rescue from threats or other violence known to them, is certainly as cogent as the mere affidavit of the interested claimant.

The law having made it the official duty of the marshals to obey and execute all such warrants and precepts to them respectively directed, and after the arrest, to keep the person arrested in custody, the law has given to the marshal the power and authority to call to his aid a sufficient force—the whole power of his district, if necessary, or a sufficient thereof—a competent posse comitatus—to guard against a threatened rescue. These men, when so called into service, are ministers and agents in the service of the government—persons lawfully sent to assist in the execution of the laws, and therefore to be paid by the public will in the public service.

Such extraordinary expenses in executing the laws are contemplated in the fifth and in the eighth sections of the act of September 18, 1850, and in the act of August 31, 1852, before quoted.

The first part of the 5th section of the act of 1850 makes it "the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the direction of this act, when to them directed;" and renders them responsible for the escape of any such fugitive from labor after arrest and before the certificate of delivery to the claimant.

By virtue of the authority of his office, and the warrant and precept delivered to the marshal, he has full authority, independently of

the statute, to summon to his aid a sufficient force of the law—the posse comitatus—to enable him to perform his duty and guard against a rescue.

"By the common law the sheriff may raise the posse comitatus or power of his county—that is, such number of men as are necessary for his assistance in the execution of the King's writs, quelling riots, &c., and herein every person above the age of fifteen and able to travel is bound to be aiding; and, if they refuse to assist, may be punished by fine and imprisonment."

This power is not only allowed the sheriff, but likewise is given to his bailiff or other minister of justice, having the execution of the King's writ; who, being resisted in endeavoring to execute the same, may lawfully raise such a force as may effectually enable them to overpower any such resistance; also a constable. * * * So a justice of the peace, who has just cause to fear a violent resistance, may raise the posse in order to remove a forcible entry or forcible detainer of lands." (Bac. Ab. Sheriff (11), Guil. ed. vol. iv, p. 453; Bouvier's ed. of Bacon's Ab. vol. vii, p. 561; Dalton's Sheriff, chap. 21, p. 104; chap. 93, p. 438; 1 Institute, 133.)

"The sheriff, under sheriff, bailiff, or other such officer, may, if need be, take the posse comitatus, and what other persons they shall think good to execute any writ, process, or other lawful warrant, to them directed, and such shall not assist therein, being required, shall make fine to the King." (Dalton's Sheriff, chap. xx, p. 104.)

"When the sheriff or other officer is enabled to take the power of the county, they may commonly and ought to take the aid and attendance of such gentlemen, clerics, and laymen, as laborers, tradesmen, servants, and apprentices, and all other such persons as are above the age of fifteen years, and that are able to travel. And in such cases there are no appointed any number, but it is referred to the discretion of the sheriff, what number they will have to attend upon them, and how and in what manner they shall be armed, weaponed, or clothed." (Dalton's Sheriff, chap. 95, p. 430.)

"The sheriff's bailiff to execute a replevin took with him three hundred men, armed (*modo quibus*) with brigandines, jacks, and guns, and it was brought to the sheriff's aid, and he was enabled to take assistance as well as the sheriff himself." (Dalton's Sheriff, chap. 95, p. 430.)

Upon a writ of *seizure* the sheriff returned that he could not deliver *seizure* for resistance. And for that the sheriff did not take the power of the county, he was amerced." (iv Bac. Ab. Sheriff, (iv), 1, 2, p. 453; Dalton's Sheriff, chap. 95, p. 438.)

"In replevin, if the sheriff return that the cattle are in a fort or a castle, so as he cannot make deliverance, he shall be amerced because he did not take the power of the county." The sheriff, if he may raise the power of the county to assist him in the execution of a writ of replevin; and therefore, if he make return thereon that he cannot make replevin by reason of resistance, he shall be amerced." (Dalton's Sheriff, vol. iv, p. 554; Dalton's Sheriff, chap. 95, p. 430.)

So the law affords ample cause to the officer to execute all lawful precepts to him directed, and put down all resistance; and, therefore, he is justly responsible if he fails to execute such precepts.

By the 27th section of the judiciary act of 1789, the office of marshal for each district is created, and his powers and duties are defined, among which are: "To execute throughout the district all lawful precepts directed to him, and issued under the authority of the United States; and he shall have power to summon, and to take necessary assistance in the execution of his duty, and, if necessary, to take possession, one or more depots, or places, as he may deem necessary."

Such being the law as to the marshals and their deputies, there was no absolute need, in the 5th section of the act of 1850, to introduce a clause to authorize them to command all requisite assistance in the execution of the warrant adduced, which was contained in that act, which should be directed to them. In this respect the act is declaratory merely.

When, however, in that section, the commissioners were authorized to direct their precepts or warrants "to any person or persons within their respective counties," by the said commissioners appointed to execute them, the act then adds, "with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid; to summon and call to their aid the bystanders or posse comitatus of the proper county, when necessary to a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act." Thus the necessary assistance in the execution of his duty, and, if necessary, to take possession, one or more depots, or places, as he may deem necessary, are expressly conferred on the persons to be appointed by the said commissioners.

And in section 9th of this act, of 1850, when the duty of the officers who made the arrest, to take the posse comitatus, and to take necessary assistance, or summoning the posse comitatus, which belonged to the marshals and their deputies, *virtute officii*, were expressly conferred on the persons to be appointed by the said commissioners.

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I repeat, the posse comitatus to aid the officer of the law in the execution of his duty is in the service of the government—not in the service of the individual who sues out the process of the law to have the justice of the nation administered to him, which administration is to be done by the government. To guard against violence by wrong-headed and ignorant citizens, or by foreign force, is an important obligation of every government—the grand purpose and consideration, indeed, for which it is instituted. Hence, when the officer of the law deems it